

Page 4
Serial No. 10/827,510
Response to Official Action

In the Drawings

No amendments are made to the Drawings herein.

Remarks

The claims in the present invention are directed towards a control system that has "a first electronically controlled vehicle system; a second electronically controlled vehicle system; and a control unit." The control unit controls the first system "at all times" and controls the second unit "only while certain conditions are determined to exist." (See Claim 7) These conditions may include whether the vehicle is moving or stationary. (See Claim 1) Applicant respectfully submits that none of the cited prior art teaches or discloses these limitations.

The Examiner has rejected claims 1-19 and 21-30 under 35 U.S.C. 103(a) as obvious in light of Retter et al. (U.S. Pub No. 20010020281 now U.S. Patent No. 6,934,874) in view of Kanehisa (U.S. Pub 20010019980 now U.S. Patent No. 6,447,417). The Examiner stated that Retter et al. disclose a first and a second electronically controlled vehicle system, as well as a control unit. (Official Action 06/02/06, p. 2.) Furthermore, the Examiner stated that Kanehisa discloses a control mechanism that alters the control of a system depending on whether the vehicle is stationary or moving. (Official Action 06/02/06, pp. 2-3.) Applicant respectfully disagrees.

Retter et al. is directed towards an electronic control system. This system "has a plurality of ... control units." (See Abstract.) Each control unit controls an individual system, such as a gearbox controller or an engine controller. (See para. [0020].) Therefore, in the cited reference, there are multiple control units each controlling one system. On the other hand, in the present invention, there is one control unit which controls two or more systems.

Futhermore, Kanehisa discloses a drive force transmission mechanism for hybrid vehicles. The system in Kanehisa, as the Examiner pointed out, performs differently when the vehicle is stopped, in motion, and accelerating. Depending on several factors, the mechanism uses a traditional engine to run the vehicle, charges the generator, and/or runs the vehicle off the generator. This mechanism, like the control unit in Retter et al., only controls one system, i.e. the power generation system for the vehicle, and never controls any auxiliary systems. Furthermore, the mechanism is always in control of the whole system, never abandoning part to control another part. In the present invention, the controller usually has control of two or more systems. However, in certain situations, including, but not limited to, when the vehicle is or is not moving, the controller will forgo control of one or more systems in order to more effectively control the remaining system.

To arrive at the present invention, one would have to take the multiple electronically controlled vehicle systems disclosed in Retter et al., combine them with the control system in Kanehisa, and make the further modifications of having one control unit control the different electronically controlled vehicle systems and allowing the control unit to forgo control of one system in favor of another. Applicant however, respectfully submits that it is well settled that the mere fact that references can be combined or modified does not render the resultant combination and/or modification obvious unless the prior art also suggests the desirability of such. See, e.g., MPEP 2143.01; *In re Mills*, 916 F.2d 680, 682, 16 USPQ2d 1430, 1432 (Fed. Cir. 1990) (fact that prior art "may be capable of being modified to run the way the apparatus is claimed, there must be some

suggestion or motivation in the reference to do so.”). In the present case, Applicant respectfully submits that neither Retter et al. nor Kanehisa teach such further modifications.

Applicant further respectfully submits that there must be “some reason, suggestion, or motivation found in the prior art” whereby a person would make the combination or modification and “[t]hat knowledge can not come from the applicant's invention itself.” *In re Oetiker*, 977 F.2d, 1443, 1447 (Fed. Cir. 1992). *See also In re Vaeck*, 947 F.2d 488, 493, 20 U.S.P.Q.2d 1438, 1442 (Fed. Cir. 1991) (emphasis added). In the present case, neither reference suggested a further modification according to the pending claims and as such, the only motivation for further modification is the Applicant's invention.

Accordingly, because neither Retter et al. nor Kanehisa teach or disclose two electronically controlled vehicle systems controlled by one control unit as required by all the pending claims, no combination thereof can render the pending claims obvious. In addition, Applicant respectfully submits that, because neither Retter et al. nor Kanehisa teach or suggest “control [of] at least one component of said first electronically controlled vehicle system at all times and ... control at least [of] one component of said second electronically controlled vehicle systems only while certain conditions are determined to exist” as required by all the pending claims, it cannot be obvious to further modify the combination of references to include this limitation to formulate an obviousness rejection.

Page 8
Serial No. 10/827,510
Response to Official Action

It is respectfully submitted that claims 1-19, 21-30, all of the claims remaining in the application, are in order for allowance and early notice to that effect is respectfully requested.

Respectfully submitted,

August 31, 2006



Wesley W. Whitmyer, Jr., Registration No. 33,558
Todd M. Oberdick, Registration No. 44,268
Attorneys for Applicants
ST.ONGE STEWARD JOHNSTON & REENS LLC
986 Bedford Street
Stamford, CT 06905-5619
203 324-6155